IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2762 OF 2005

Sau. Yamunabai Shivaji Bhambare : Petitioner

V/s.

Rafiq Bashir Shaikh & Ors. : Respondents

...

Mr.G.S.Godbole for the petitioner.

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CORAM : S.A. BOBDE, J.

June 14, 2005.

P.C.:

1. This petition is directed against concurrent findings of two Courts below holding the respondents entitled to mandatory injunction. By the mandatory injunction, the Courts below have directed respondent no.1 to remove the obstruction from the road which was found to be an old road in the use of the respondents. There is a clear prima facie finding that the petitioner-defendant has fixed the wooden pegs on the road itself and, therefore, there is an obstruction to respondent no.1. The trial Court had appointed a Commissioner whose report is also taken into account.

2. In the circumstances, I am of view that the impugned order does not call for interference. However, having regard to the nature of the controversy, the trial Court is requested to dispose of the suit, as expeditiously as possible, and preferably within one year from today. The trial Court shall decide the matter finally on merits, uninfluenced by the observations of this Court.

3. The petition is dismissed.

Sd/-

S.A. BOBDE, J.